



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

LAWRENCE D. LIEBER,

Defendant.

LAWRENCE D. LIEBER,

Counterclaimant,

v.

MARVEL CHARACTERS, INC., and DOES  
1-10, inclusive,

Counterclaim-Defendants.

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

PATRICK S. DITKO, in his capacity as  
Administrator of the Estate of Stephen J.  
Ditko,

Defendant.

PATRICK S. DITKO, in his capacity as  
Administrator of the Estate of Stephen J.  
Ditko,

Counterclaimant,

v.

MARVEL CHARACTERS, INC. and DOES  
1-10, inclusive,

Counterclaim-Defendants.

Case No.: 1:21-cv-7955-LAK  
and consolidated cases  
21-cv-7957-LAK and 21-cv-7959-LAK

**JOINT STIPULATION AND  
~~PROPOSED~~ ORDER REGARDING  
PRETRIAL SCHEDULE**

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

KEITH A. DETTWILER, in his capacity as  
Executor of the Estate of Donald L. Heck,

Defendant.

KEITH A. DETTWILER, in his capacity as  
Executor of the Estate of Donald L. Heck

Counterclaimant,

v.

MARVEL CHARACTERS, INC. and DOES  
1-10, inclusive,

Counterclaim-Defendants.

#### **STIPULATION**

Plaintiff and Counterclaim-Defendant Marvel Characters, Inc. ("Marvel") and Defendants and Counterclaimants Lawrence D. Lieber, Patrick S. Ditko, and Keith A. Dettwiler (collectively, the "Parties") stipulate as follows:

**WHEREAS**, for the above three referenced cases (which have been consolidated for pretrial purposes), the Court ordered that motions for summary judgment are due on or before May 5, 2023;<sup>1</sup>

**WHEREAS**, the Parties all intend to file cross-motions for summary judgment;

**WHEREAS**, Defendants-Counterclaimants' counsel, Marc Toberoff, is scheduled to undergo two important medical surgeries which will severely limit his ability to work on Defendants-Counterclaimants' summary judgment motions and Defendants-Counterclaimants' answering and reply papers;

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<sup>1</sup> See Order (ECF No. 64), *Marvel Characters, Inc. v. Lieber*, No. 1:21-cv-07955-LAK (S.D.N.Y.); Order (ECF No. 59), *Marvel Characters, Inc. v. Ditko*, No. 1:21-cv-07957-LAK (S.D.N.Y.); Order (ECF No. 62), *Marvel Characters, Inc. v. Dettwiler*, No. 1:21-cv-07959-LAK (S.D.N.Y.).

**WHEREAS**, in light of Mr. Toberoff's forthcoming medical surgeries, Defendants-Counterclaimants have asked Marvel to agree to a two-week extension of the deadline to file motions for summary judgment;

**WHEREAS**, Marvel has advised Defendants-Counterclaimants that it agrees to the requested extension subject to approval of the Court;

**WHEREAS**, the Parties further agree to a two-week extension of the deadlines to file oppositions to the motions for summary judgment and to file reply papers;

**WHEREAS**, the Parties further agree to defer any motions regarding the right to a jury trial in the above-referenced cases until after the Court has ruled on the Parties' cross-motions for summary judgment;

**WHEREAS**, recognizing that the Third Scheduling Order states that no further extensions will be permitted, these modifications will not meaningfully delay the overall progress of the case and may actually increase the efficient progression of the case.

Based on the foregoing, **IT IS HEREBY STIPULATED** by and between the Parties, through their respective counsel of record, subject to the Court's approval, that:

1. The deadline to submit motions for summary judgment shall be continued to May 19, 2023.
2. The deadline to submit oppositions to motions for summary judgment shall be continued to June 16, 2023.
3. The deadline to submit replies in support of motions for summary judgment shall be continued to July 7, 2023.
4. Any motion regarding entitlement to a jury trial will be litigated, if necessary, after the Court rules on the forthcoming cross-motions for summary judgment.

Dated: April 25, 2023

**O'MELVENY & MYERS LLP**

By: /s/ Daniel M. Petrocelli  
Daniel M. Petrocelli

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*Attorneys for Marvel Characters, Inc.*

Dated: April 25, 2023

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By: /s/ Marc Toberoff  
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*Attorneys for Lawrence D. Lieber, Patrick S.  
Ditko, and Keith A. Dettwiler*

SO ORDERED

  
LEWIS A. KAPLAN, USD

5/1/23